

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

MARCOS DE LA TORRE,

Defendant.

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CASE NO. 8:16CR115

ORDER

This matter is before the Court on the Defendant's Objection to Magistrate Judge's Order to Continue Defendant's Trial Date (Filing No. 50). The Defendant argues that good cause did not exist for the continuance requested by the government, and that the Magistrate Judge erred in excluding time under the Speedy Trial Act. The Defendant questions whether the government exercised due diligence to obtain a necessary witness, and suggests that an evidentiary hearing should have been conducted to determine whether the witness could have been made available at a date earlier than the new trial setting, October 25, 2016.

The government's Motion to Continue Trial Date (Filing No. 46) was filed within one week of the Court's Trial Order (Filing No. 45) setting the matter for trial on September 27, 2016. The Motion notes that the government contacted the U.S. Marshal within three days of the issuance of the Trial Order, to initiate the transfer of the witness who is in the custody of the Bureau of Prisons, and was informed that the transfer would require a minimum of six weeks. The Defendant has not disputed the facts presented in the government's Motion, but disagrees with the inferences drawn from those facts, such as the reasonableness of the time needed by the Marshal to secure the delivery of the necessary witness. The Court

concludes that the Magistrate Judge's Order was not clearly erroneous or contrary to law, and the Defendant's Objection will be overruled. Accordingly,

IT IS ORDERED that the Defendant's Objection to Magistrate Judge's Order to Continue Defendant's Trial Date (Filing No. 50) is overruled.

DATED this 21st day of September, 2016.

BY THE COURT:

s/Laurie Smith Camp
Chief United States District Judge